

MIAMI BEACH

OFFICE OF THE CITY MANAGER

NO. LTC #

077-2016

LETTER TO COMMISSION

TO: Mayor Philip Levine and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: February 24, 2016

SUBJECT: **USE OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS AS RENT SUBSIDY FOR TENANTS OF THE ALLEN APARTMENTS**

The purpose of this Letter To Commission is to address an inquiry raised by Commissioner Kristen Rosen Gonzalez at the February 10, 2016 City Commission meeting as to the possible use of Community Development Block Grant (CDBG) funds to provide rent subsidies for the tenants of the Allen Apartments, a Miami Beach Community Development Corporation-owned affordable housing property.

At the meeting, the Administration presented item R7I, a request to recapture and reallocate unexpended CDBG funds from previous fiscal years to ensure the timely expenditure of these funds via eligible activities consistent with the City's *Annual Plan* and *Consolidated Plan*. Commissioner Rosen Gonzalez inquired if the funds being reallocated could instead be used to provide a rent subsidy specifically to the tenants of the Allen Apartments.

The Allen Apartments, a 39-unit affordable housing building located at 2001 Washington Avenue, was acquired by Miami Beach Community Development Corporation (MBCDC) in 2007 with City Redevelopment Agency (RDA) funds. MBCDC subsequently received funds from a variety of sources to rehabilitate the building including additional City funds and a traditional bank loan:

Funds Utilized to Rehabilitate the Allen Apartments	
City of Miami Beach	\$ 1,024,708
Miami-Dade County Surtax Loan	\$ 500,000
Florida Housing Finance Corporation	\$ 750,000
Great Florida Bank	\$ 500,000

The conversation at February's Commission meeting was driven by a rent increase that was instituted at the building by MBCDC to ensure that the building can meet its debt service obligations to the Miami-Dade County Surtax Loan which began its repayment schedule in August 2015. MBCDC, which has been under new management since September 2014, reviewed the loan documents for the building and noted that the rent schedules in place did not meet the fiscal viability thresholds proposed in the loan documents. As a result, MBCDC adjusted the rent levels to those that would maintain the building as financially viable:

Rent Schedules in Place	Rent Schedules in Loan Documents
30 efficiency units @ 33% AMI ¹	10 efficiency units @ 33% AMI
5 efficiency units @ 45% AMI	26 efficiency units @ 50% AMI
1 efficiency/ 3 one-bedroom units @ 50% AMI	3 one-bedroom units @ 50% AMI

AMI = Area Median Income

As a result of these rent adjustments, there are 23 tenants experiencing rent increases ranging from \$57 to \$200 per month. In order to provide rent relief to these tenants who are on fixed incomes, Commissioner Rosen Gonzalez requested the provision of three months of rent assistance (estimated \$11,655) as a means of buying time to find a long-term solution.

As mentioned at the meeting, the regulations administering CDBG funds are managed by the United States Department of Housing and Urban Development (HUD). There are several regulations that prohibit their use as a rent subsidy for any targeted group:

- HUD limits the amount of CDBG funds obligated for public service activities to an amount no greater than 15 percent, of the entitlement grant made for that program year and uses of the funds are limited to programs listed in the adopted Action Plan.** The City's FY15/16 CDBG allocation was \$905,563 with a maximum of \$135,834.45 eligible for allocation to public services. The FY 15/16 Action Plan, approved by the City Commission on July 8, 2015 via Resolution No.2015-29080, allocated \$119,400 to public services, leaving of \$16,434.45 to meet the 15% cap available and planned to be used for capital improvements at the Lottie. Public services allocations must be expended by September 30th of each fiscal year with any unspent balance subject to recapture and reallocation. In the Administration's proposal for recapture, the City was replacing the homeless services originally presented in the *Action Plan* for implementation by Jewish Community Services for homeless services overseen by HOPE of Miami-Dade, Inc., a non-profit organization that has been providing homeless outreach and support services in our City for more than 10 years. Jewish Community Services declined its award after the *Action Plan* was submitted to HUD for approval but before executing its funding agreement. Changing the use of funds from homeless services to any other purpose would require an amendment in the Action Plan. Such changes would require approval by HUD as part of the process.
- CDBG funds may not be used for rent payments other than emergency grant payments.** HUD rules, found in 24 CFR Section 570.207(b)(4), establish that income payments (which are a series of subsistence-type grant payments made to an individual or family for items such as food, clothing, housing (rent or mortgage), or utilities) are ineligible for CDBG funds. Such assistance excludes emergency grant payments made over a period of up to three consecutive months. Pursuant to the City's Consolidated Plan and City Guidelines, emergency is defined as a one month period. In the instance of the Allen, such subsidies would not constitute emergency grant payments as the only criterion that will allow us to determine the "emergency" factor is that the beneficiaries would have the ability to resume the rent payment once initial rent assistance is provided.
- Use of Emergency Food and Shelter Program (EFSP) funds for rent assistance are limited to one month and must demonstrate that they are at risk.** The City receives EFSP funds through the United Way to provide rent assistance to any individual or household that is at risk of losing their home. The amount of funding the City receives is between \$12,000 and \$18,000 each year. The City has not yet received its allocation for the current fiscal year.

It should be noted that the City's emergency rent procedures, that are in place for both CDBG and Emergency Food and Shelter Program (EFSP) funds, require that applicants for rent assistance provide a copy of a *Three-Day Notice of Eviction* (which documents the need for emergency assistance) and demonstrate their ability to resume independent rent payments the following month. In this case, the residents of the Allen Apartments would not be able to demonstrate compliance with this rule as their financial status will remain unchanged despite the City's short-term fiscal intervention. It should be noted that the City provides only one month's rent assistance to any individual or household within one calendar year (so as to be equitable in serving as many households as possible and meet the service projections provided to our funders). Furthermore, federal funds must be equitably accessed by eligible applicants. That is to say that, even if the City were able to provide such rent subsidies with CDBG funds, it could not target tenants of the Allen Apartments as its primary beneficiaries.

- **There are no remaining eligible HOME funds this fiscal year.** HUD rules, found in 24 CFR Section 570.207(b)(4), establish that income payments (which are a series of subsistence-type grant payments made to an individual or family for items

As a reminder, please note that the City must submit to HUD its *Consolidated Annual Performance and Evaluation Report* (CAPER) demonstrating its use of CDBG and HOME funds in support of its *Action Plan* and *Consolidated Plan*. Neither the *Action Plan* nor the *Consolidated Plan* currently includes Tenant Based Rental Assistance (TBRA). While HOME funds can be used for rental assistance, the City would be required to amend its *Consolidated Plan* and ensure public participation in this change prior to using such funds for this purpose. If ... This change would not become effective until next fiscal year, and the funds would not become available typically until the end of the calendar year. Furthermore, because the Allen Apartments were provided HOME funds for its rehabilitation and remains under the affordability period, its tenants would not be eligible to receive HOME assistance.

Finally, as a point of clarification, a comment was made at the meeting that EFSP funds could be used to provide one month's assistance to tenants of the Allen Apartments. In actuality, only those tenants who have not received rent assistance in the past year and can provide a *Three-Day Notice of Eviction* can be considered eligible for rent assistance. If provided assistance, program applicants can only receive one month of support as per EFSP program guidelines. Unfortunately, the City has yet to receive its FY 15/16 EFSP allocation and the United Way of Miami-Dade County, the program's local administrator, is unable to advise us as to when funds would be released. Historically, these funds have come late in the calendar year.

If you have any questions, please let me know.

JLM/KGB/MLR